CoStar Realty Information, Inc. v. Waldman et al

Doc. 16

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

CoSTAR REALTY INFORMATION, INC., Plaintiff, v. Craig Waldman, doing business as CW Properties and Kary Moore, doing business as Properties Unlimited, Defendants.	Case No. RWT-05-3432

STIPULATION FOR ENTRY OF JUDGMENT AND PERMANENT INJUNCTION AGAINST DEFENDANTAND [PROPOSED] ORDER

Plaintiffs CoStar Realty Information, Inc. and CoStar Group, Inc. (collectively, "CoStar), and Defendants Craig Waldman, doing business as CW Properties, and Kary Moore, doing business as Properties Unlimited (collectively, "Defendants), hereby stipulate as follows:

A. On December 23, 2005, CoStar filed this Action (the "Action) asserting claims for (1) Unauthorized Access to a Protected Computer by CW under the Computer Fraud & Abuse Act; (2) fraud by CW and PU; (3) breach of contract by CW and PU, (4) tortious interference with contract by CW, and (5) violation of California Penal Code Section 502(c) by CW and PU.

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B. The claims asserted by CoStar in this Action arose out of the unauthorized access and use of CoStar's proprietary subscription-only commercial real estate information services. In particular, this lawsuit arises out of the following facts:

1. Authorized access to CoStar's subscription information services is limited to those users who gain access pursuant to a written license agreement between the business they work for and CoStar. The license agreement, among other terms and conditions, identifies a specified number of designated licensed users ("Authorized Users).

2. Once a business executes a license agreement with CoStar, each of its Authorized Users is provided with a user identification, password and, if applicable, electronic key token (collectively, "Passcodes), which allows the user Internet-based access to CoStar's subscription information services within the terms of the user's specific license. An Authorized User must input a valid passcode at the "Subscriber Login Area (now referred to as the "Customer Login Area) to gain authorized access to CoStar's restricted access information services for which they are licensed. The Subscriber Login Area contains prominent notices advising the user that login and use of the service is subject to CoStar's terms of use.

3. CW Properties is a former CoStar subscriber whose license to access CoStar's commercial real estate information subscription services terminated in the summer of 2003 after CW Properties stopped paying the required license fees. Shortly thereafter, Properties Unlimited signed a one-user license agreement (the "License Agreement) with CoStar in November 2003. CoStar provided Properties Unlimited with Passcodes to access and use the CoStar service from the single licensed site of 5926 Laguna Villa Way in Elk Grove, California. The terms and conditions in the License Agreement prohibited Properties Unlimited from, among other things, (a) providing third parties with access to or use of the CoStar database

service, and (b) providing third parties with the passcodes assigned to Properties Unlimited's sole Authorized User, Kary Moore.

4. In violation of these provisions in the License Agreement, Kary Moore provided his passcodes to Craig Waldman, who used the passcodes to access and use CoStar's commercial real estate information services without a valid license or any other authorization from CoStar. Moore's Passcodes to the CoStar services were used for hundreds of logins from Waldman's offices is Sacramento, California. Upon learning this, CoStar sent cease and desist letters to Defendants dated November 15, 2005. Defendants failed to respond to those letters.

C. CoStar and Defendants have agreed to settle this Action and have entered into a formal written Settlement Agreement and Mutual Release, the terms of which include that, among other things, Defendants consent to the entry of a Permanent Injunction/Consent Judgment in the form set forth below.

NOW THEREFORE DEFENDANTS CONSENT AND AGREE THAT, Defendants, along with each of its directors, principals, officers, agents, servants, employees, representatives, successors and assigns, and all those persons or entities acting in concert or participation with them, shall be and hereby are **PERMANENTLY ENJOINED** and restrained from:

1. Obtaining, accessing, using, reproducing, distributing, creating derivative works from, or displaying, whether directly or indirectly, any CoStar database service or any portion thereof, without first obtaining written authorization from CoStar;

2. Obtaining or using any passcodes for use of any CoStar database service or any portion thereof for any purpose other than as specifically set forth in a valid CoStar license agreement;

3. Interfering with CoStar's current or prospective contracts pertaining to use and access of CoStar's database service; and

4. Assisting, aiding or abetting any other person or business entity in engaging in or performing any of the activities referred to above.

DEFENDANTS FURTHER CONSENT AND AGREE THAT, DEFENDANTS, (a) have permanently deleted and destroyed all elements of *any* CoStar database service under its control, regardless whether in print or electronic form, and (b) shall pay to CoStar the sum of fifty-seven thousand five hundred dollars ($57,500).

IT IS SO STIPULATED

By the parties:

COSTAR REALTY INFORMATION, INC.

____________________ Dated: 7/17/06

Signed By: Jonathan Coleman (printed or typed)

Its: General Counsel (title)

CRAIG WALDMAN
D/B/A CW PROPERTIES

____________________ Dated: ________
By: Craig Waldman, an Individual

KARY MOORE
D/B/A PROPERTIES UNLIMITED

____________________ Dated: ________
By: Kary Moore d/b/a Properties Unlimited

3. Interfering with CoStar's current or prospective contracts pertaining to use and access of CoStar's database service; and

4. Assisting, aiding or abetting any other person or business entity in engaging in or performing any of the activities referred to above.

DEFENDANTS FURTHER CONSENT AND AGREE THAT, DEFENDANTS, (a) have permanently deleted and destroyed all elements of *any* CoStar database service under its control, regardless whether in print or electronic form, and (b) shall pay to CoStar the sum of fifty-seven thousand five hundred dollars ($57,500).

IT IS SO STIPULATED

By the parties:

COSTAR REALTY INFORMATION, INC.

____________________________ Dated:____________

Signed By: ____________________(printed or typed)

Its:__________________________(title)

CRAIG WALDMAN
D/B/A CW PROPERTIES

C. E. Wald Dated: 7-10-2006
By: Craig Waldman, ~~an Individual~~ d/b/a CW Properties

KARY MOORE
D/B/A PROPERTIES UNLIMITED

____________________________ Dated:____________
By: Kary Moore d/b/a Properties Unlimited

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4. Assisting, aiding or abetting any other person or business entity in engaging in or performing any of the activities referred to above.

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By the parties:

COSTAR REALTY INFORMATION, INC.

______________________________ Dated:____________

Signed By: ____________________(printed or typed)

Its:___________________________(title)

CRAIG WALDMAN
D/B/A CW PROPERTIES

______________________________ Dated:____________
By: Craig Waldman, an Individual

KARY MOORE
D/B/A PROPERTIES UNLIMITED

Kary Moore Dated: 7-7-06
By: Kary Moore d/b/a Properties Unlimited

And Approved as to Form by Counsel:

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Baltimore, Maryland 21209
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Pasadena, CA 91101-4108
Telephone: (626) 793-9400
Facsimile: (626) 793-5900

Attorney for Defendant
Kary Moore d/b/a Properties Unlimited

ORDER

Upon the parties stipulation and for the good cause shown therein, the Court hereby enters this Consent Judgment in favor of Plaintiffs and permanently enjoins and restrains Defendants along with each of its directors, principals, officers, agents, servants, employees, representatives, successors and assigns, and all those persons or entities acting in concert or participation with them as set forth above. This case is terminated, however, the Court shall retain jurisdiction over these parties and this dispute for the purpose of enforcing this Order.

IT IS SO ORDERED.

DATED:________________

UNITED STATES DISTRICT JUDGE

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